

**Subcommittee on Land (Compulsory Sale for Redevelopment)
(Specification of Lower Percentage) Notice**

(a) Outcome of review of the implementation of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545) since its coming into force in 1999

Since the coming into operation of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545), the Lands Tribunal had received 64 applications for compulsory sale up to the end of January 2010.

Of the 64 applications, sale orders were issued for 21 applications; one application was declined as the applicant had failed to satisfy the Lands Tribunal that redevelopment was justified for the subject lot; another 35 have been withdrawn/discontinued; and another 7 are in progress.

The separate paper on “Summary of key issues covered in past Lands Tribunal judgments on applications for compulsory sale under the Land (Compulsory Sale for Redevelopment) Ordinance” to be submitted to the Subcommittee will contain details of the considerations given by the Lands Tribunal over the 11 cases for which there are written judgments available through public channels. Details of the award of legal costs, where applicable in those cases, will be included in this separate paper.

The public submission under CB(1)1126/09-10(01) has made reference to hardship cases arising from the current law which provides for a compulsory sale application threshold of 90% and suggested that the situation will be further aggravated with a lowering of the application threshold to 80%. The case summaries and analyses will serve to better illustrate the operation of the current legislation.

(b) Establishment of a Mediation Mechanism

We will carefully study Members’ suggestion and encourage the majority owners and minority owners of a lot to adopt a mediation approach to resolve any disputes between them before invoking the

procedures under Cap 545.

(c) (i) *Overseas Experience in Urban Renewal, with particular reference to owner participation*

In early 2009, the Development Bureau engaged a research team from the University of Hong Kong to conduct a study on the urban renewal policies in a number of Asian cities in the context of the Urban Renewal Strategy Review. The summary information below has drawn reference from the study report.

Singapore

In Singapore, the Government has introduced three measures to facilitate private sector redevelopment initiatives. They include lifting of rent control, en bloc sale (similar to compulsory sale for redevelopment in Hong Kong) and waiver of building premium (the Singapore Government used to charge both a land premium and a building premium when extending a lease in the past). Since 1999, the Land Titles (Strata) Act (LTSA) has been changed and now provides that for buildings less than 10 years old, applications for en bloc sale would only be considered if the owners of not less than 90% of the share values of the land agree in writing to sell to a purchaser under a sale and purchase agreement. For buildings over 10 years of age, the required percentage is 80%. There is no provision in the LTSA to require that building conditions be taken into account when considering any application for en bloc sale. The LTSA has no provision for owner participation. That said, similar to the situation in Hong Kong, there is no prohibition under the LTSA against any form of collaboration between the developer and the minority owners.

Tokyo

In Japan, the Urban Redevelopment Law contains a provision for owner participation in private sector-initiated urban redevelopment projects. The developer is required to set up an association for redevelopment involving owners of the subject lots. The law, enacted in 1969, also provides the statutory requirement of 2/3 consent of landowners for initiating redevelopment projects.

Although there is a statutory provision to provide mandate for redevelopment on the basis of a 2/3 owners' consent, the remaining

owners are seldom forced to participate against their will. There is thus a prolonged period of persuasion and negotiation between the project authorities and the landowners. The owners have to share the financial risk of the project but incentive in the form of additional plot ratio is usually available.

In the public-private partnership mode of redevelopment in Japan, a redevelopment project is carried out with the participation of the local government, the private sector and the local landowners.

The financing model is also a tripartite strategy in which the private developer pays for the construction and planning costs, the local landowners will contribute their land or buildings in return for a new plot of land, building or floor rights after the redevelopment, and finally the local government provides some subsidies or financial incentives such as sharing the cost for construction of public facilities and preferential tax on gain on sale of property etc.

Taipei

In Taipei, the Urban Renewal Act also has a provision for owner participation. The developers are required to set up urban renewal companies limited by shares with the participation of landowners. There are two ways in which urban redevelopment can take place in Taipei: an area that has been designated by the Government for urban renewal and an area that has not been designated for urban renewal. Developers who wish to proceed with redevelopment must seek the consent from owners the requisite percentage of which depends on whether the land is a priority redevelopment area designated by the government. For landowners-initiated renewal projects, rights exchange takes place among landowners themselves.

(ii) To make owner participation an arrangement to enhance protection of minority owners in the implementation of Cap 545

Cap 545 aims to provide a legal framework to facilitate applications for compulsory sale for redevelopment by private property owners who own undivided shares in a lot above the specified application threshold. The compulsory sale of undivided shares involved through public auction on a reserved price approved by the Lands Tribunal taking into account the redevelopment potential involved is, by nature, a transaction between two private property owners. It is

not appropriate for the Government to impose any other condition on such property transactions.

(d) To consider specifying a lower application threshold of 80% for buildings at or above 30 years of age as proposed by Members to address the problem of building dilapidation in a timely manner

We have no plans to specify a lower application threshold of 80% for buildings at or above 30 years of age. To address the problem of building dilapidation in Hong Kong, the Government has introduced various measures and has also recently put forward legislative proposals relating to building maintenance. The Government is also conducting a comprehensive review of the Urban Renewal Strategy.

**Development Bureau
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